In the High Court of Punjab and Haryana at Chandigarh

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C.W.P.No.12161 of 2006

Date of decision: 1.11. 2006

Manoj Kumar and others ..Petitioners

Versus

State of Haryana and others ..Respondents

Coram: Hon'ble Mr.Justice M.M.Kumar
Hon'ble Mr.Justice M.M.S.Bedi

Present: Mr.S.S.Dahiya,Advocate
for the petitioner No.4.
Mr.Harish Rathee,Sr.DAG,Haryana

M.M.Kumar,J.(Oral)

This petition filed under Article 226 of the Constitution survives only in respect of petitioner no. 4 Surender Singh son of Shri Dalbir Singh as the petition on behalf of other petitioners was not pressed on 20.9.2006 and accordingly the petition was dismissed as withdrawn on 20.9.2006 in respect thereto.

Petitioner no. 4 Surender Singh had applied for the post of Multi Purpose Health Worker in response to an advertisement dated 7.5.2006 (Annexure P.1) in the general category. According to the advertisement qualifications required for the post of Multipurpose Health worker is matric; knowledge of Hindi up to matric standard and Multi Purpose Health Workers Training course from an institution approved by the Haryana Government. His candidature was not accepted on the ground that he had obtained certificate course concerning Multipurpose Health Workers Training Course from a University not recognized by the State of Haryana. The petitioner has approached this Court with the grievance that the diploma possessed by him has been obtained from the Rajasthan Vidya Peeth which is a deemed University and accordingly the same is liable to be accepted by the respondents in view of

the instructions dated 18.3.1975 (P.6). A copy of the diploma certificate has been placed on record as Annexure P.2. When the matter came up for motion hearing on 7.8.2006 then we have issued interim directions granting permission to the petitioner to appear for the interview which was then in progress. Accordingly, the petitioner was interviewed in the general category and on our directions, the result in a sealed cover has been produced. The sealed cover has been opened by the Bench Secretary and the same has been placed before us. A perusal of the result shows that the petitioner has secured total 49.25 marks out of 75 marks. The break up of his marks on the basis of his academic qualification is 32.25 marks out of 50 marks and he has secured 17 out of 25 marks in the viva voce test. The last candidate in the general category selected and appointed to the post of Multi Purpose Health worker (M) has secured 49.25 marks.

The only question which requires consideration by this Court is whether the diploma certificate obtained by the petitioner from a deemed university would be considered as requisite qualification for appointment to the post of Multipurpose Health worker or the respondents could be permitted de-recognize it declaring the petitioner as ineligible. Admittedly, he has acquired the qualification from a deemed university which is recognized by the University Grants Commission. The notification issued by the University Grants Commission dated 19.8.2003 (Annexure P-12) shows that Rajasthan Vidya Peeth is declared as a deemed university. The afore-mentioned notification which also deals with the changes made in the name of Rajasthan Vidya Peeth reads as under:

> " Rajasthan Vidya Peeth Udaipur was granted Deemed to be University status under the provisions of Section 3 of the University Grants Commission Act, 1956 (3 of 1956) vide his Ministry's notification no. F.9-5/84 -U.3 dated January 12,1987.
>
> The Central Govt. on the request of the Rajasthan Vidya Peeth and on the advice of the University Grants Commission hereby declare that the name of the Rajasthan Vidyapeeth, Udaipur is changed to Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur

Rajasthan Vidyapeeth Udaipur, Rajasthan with immediate effect."

According to the instructions issued by the respondent-State on 18.3.1975 (Annexure P.6) all those degrees and diplomas which have been awarded by the recognized Universities and by the Boards established by the State Government for High/Higher Secondary, were ipso facto recognized . It has further been provided that those degrees and diplomas which are recognized by Govt. of India are deemed to be recognized by the Government of Haryana. The afore-mentioned instructions have been reiterated again by another set of instructions issued on 2.11.1999 by the Financial Commissioner and Secretary to Government, Haryana, Education Department. Those instructions have been placed on record in a connected writ petition namely CWP No. 12187 of 2006 as Annexure P.18. Even otherwise we find that once the University Grant Commission has accepted the qualification which is recognized as a deemed University then it would not be within the competence of respondent-State to refuse recognition of such qualification. This question has repeatedly been considered by Hon'ble the Supreme Court in numerous judgements. In the case of **University of Delhi v. Raj Singh** AIR 1995 SC 336 certain qualifications for appointment of Lecturer were laid down by the University Grants Commission by the University Grants Commission (Qualifications required of a person for appointment to the teaching Staff of a University and Institutions affiliated to it), Regulations 1991. The University of Delhi refused to accept those regulations as binding by arguing that various provisions of Delhi University Act,1922 grant them autonomy. The Hon'ble Supreme Court while interpreting Section 3 of the University Grants Commission Act, 1956 alongwith Sections 12 A(2) and Section 26(1)(c) came to the conclusion that the regulations were binding on the University. The conflict which was sought to be brought before Hon'ble the Supreme Court by arguing that the Delhi University Act has granted complete autonomy to them has been resolved by referring to entry 66 in List I of Seventh Schedule.

A similar question arose before the Hon'ble Supreme Court in ther case of **State of T.N. v. Adhiyaman Educational & Research Institute and**

others(1995)4 SCC-104). The question before the Hon'ble Supreme Court was whether the State Government has power to grant and withdraw permission to start a technical institution as defined in the Central Act after coming into force of the All India Council for Technical Education Act,1987. Dismissing the appeal filed by the State of Tamil Nadu, the Hon'ble Supreme Court again placed reliance on Entry No.66 of Union List(List -I) of the VIIth Schedule of Article 254 of the Constitution to hold that if the State Legislature frames any law, which is repugnant to the Central Law like the All India Council for Technical Education Act,1987 then the law framed by the State Legislature would be ultra vires to the extent of its repugnancy to the Central Law. In other words, the State laws in respect of subjects on the Union List (List-I) have to give way to the Central Laws and therefore, the de-recognition by the State government or the disaffiliation by the State University on the ground which are inconsistent with those enumerated in the Central Statute were held to be inoperative. In the other judgment in the case of **Prof. Yash Pal and another Versus State of Chhattisgarh and others (2005)5 SCC 420,** the statute framed by the State of Chhattisgarh providing for creation of a University by issuance of notification was held to be beyond the competence of the State Legislature on account of Entry 66 in List-I of the VIIth Schedule dealing with co-ordination and determination of standards in Institution for Higher Education or Research and Scientific and Technical Education being in the Union List for which Parliament alone is competent to frame laws. It has been held that Parliament alone is responsible to ensure that proper standards are maintained in Institution for Higher Education or Research throughout the country and also uniformity in standards is maintained. Emphasizing the importance of right of conferring degree by reference to Section 22 of the of the University Grant Commission Act,1956. It has been held that degree can be conferred or granted only by a University or an Institution deemed to be University under Section 3 read with Section 22 of the 1956 Act. It has also been held that mere conferment of degree is not enough but it should be recognized as well. The aforementioned view flows from a reading of para 39 of the judgment which is as under:-

> "39. Mere conferment of degree is snot enough. What is necessary is that the degree should be recognized. It is for this purpose that the right to confer degree has been given under Section 22 of the UGC Act only to a university established or incorporated by or under a Central Act, Provincial Act or State Act or an institution deemed to be a university under Section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees, Sub-section (3) of this section provides that "degree" means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette. The value and importance of such degrees which are recognized by the Government was pointed out by a Constitution Bench in **S. Azeez Basha Vs. Union of India-AIR 1968 SC 662."**

On the basis of principle as well as precedent mentioned above, it must be concluded that a diploma certificate issued by a deemed university like Rajasthan Vidya Peeth has to be held as valid because the University Grant Commission vide its notification dated 19.8.2003 has conferred upon Rajasthan Vidya Peeth,Udaipur, the status of deemed University under Section 3 of the 1956 Act. Once it is so, then the respondent-state or any of its agencies cannot be permitted to de-recognize such degree or diploma, because such an action on their part would be repugnant to the provisions of Article 254 of the Constitution of India. We are further of the view that the argument of the learned State counsel that only those certificate courses are accepted by the respondent-State which are from an institution approved by the Haryana Government cannot be accepted as it would amount to keeping out of eligible candidates merely because they have obtained their qualifications from a University or an institution outside the State of Haryana. However, such a course would not be available to the respondent-state because other institutions located in the country have been conferring the similar type of diploma certificates which are in no way inferior to the one approved by the respondent-

State. As per their own instructions dated 18.3.1975 all those degrees and diplomas which have been awarded by the recognized universities and by the Boards established by the State Government for high/higher secondary were ipso facto recognized. The instruction further provided that those degrees and diplomas which are recognized by the Government of India are deemed to be recognized by the respondent-State. There is nothing contrary in the instructions issued on 2.11.1999 and therefore, the diploma certificate issued by the Rajasthan Vidya Peeth must be recognized as a requisite qualification fulfilling the requirement of multipurpose health workers training course as postulated by the advertisement dated 7.5.2006.

In view of the above, order dated 16.7.2006(Annexure P-3) issued by respondent No.3 is hereby quashed. The multipurpose health workers training course of 18 months conferred upon the petitioner by Janardan Rai Nagar Rajasthan Vidyapeeth,Udaipur, a deemed university(Annexure P-2) is declared to be valid diploma. As the petitioner No.4 has secured more marks than the last selected candidate, the respondents are directed to appoint him on the post of multipurpose health worker(Male) in general category with effect from the date other persons in his category has been appointed. The petitioners shall be entitled to all consequential benefits except arrears of pay. The needful shall be done by the respondents within a period of one month from the date of receipt of copy of this order.

(M.M.KUMAR)
JUDGE

November 1,2006 (M.M.S.BEDI)
okg/nk JUDGE

Fit for indexing.